

BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, D.C. 20554

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In the Matter of

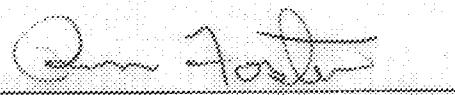
Revision of Part 22 of the  
Commission's Rules Governing the  
Public Mobile Services

FCC MAIL ROOM

CC Docket No. 92-115

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**COMMENTS TO OPPOSITION/SUPPORT OF  
PETITIONS FOR RECONSIDERATION**



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**COMMENTS ON OPPOSITIONS  
TO REQUEST FOR RECONSIDERATION**

There have been no convincing arguments presented to the Federal Communications Commission to leave the new rule changes to 22.919 intact. Rather, the only issues that have been raised are based upon suggestion and innuendo. The supporters of 22.919, in it's present context, offer no proof or documented evidence, for the record, to substantiate any of the claims of technical problems or elimination of fraud. Title 18 provides severe penalties for fraud. There is no rationale as to why the FCC should think that a rule change will have any impact on fraud when the threat of prison under Title 18 does little to deter the criminal. Is the FCC so naive that it thinks it has the power to eliminate fraud with the stroke of a pen? I think not! It is blatantly obvious that the only reason for the rule changes to 22.919 is to eliminate any competition in the cellular market. To put it simply, we feel the FCC has been misled by the CTIA and it's members as to their real motives.

We request that the FCC reassess it's position on 22.919 regarding ESN changes for the following reasons.

1. It is in the public's best interest. Families can afford the safety and security of a cellular telephone for every member.
2. The public demands an alternative to the monopolies of the carriers.
3. The public is better served because emulated providers offer a better value.
4. The new rule is not in the public's best interest. Allowing only the carriers to provide "extension" phones will cost the general public approximately 1 billion dollars a year! This is based upon the single cost of an emulated phone vs. the carrier's perpetual cost assuming 1/4 of subscribers have "extension" phones.
5. By definition, providers of emulated services do not commit fraud. The service is provided with the full knowledge of the registered customer.
6. Allowing emulated "extension" phones is in the best interest of the public and fosters competition in the cellular market.

7. Providers of emulated "extension" phones offer a superior product that meet FCC compatibility standards. The carriers do not.
8. According to the current FCC standards, changing a few bits of information in the cellular phone does not change the criteria for type acceptance.
9. Making the changes to 22.919 retroactive causes a grievous burden to the public, which bought emulated phones in good faith when no prior FCC rule excluded them.
10. To favor one group and adopt punitive measures against another is unequal application of the FCC rules. If one group of emulated phones are declared "illegal transmitters" then ALL phones that have ESN changes including those by the manufacturers should also be placed in this category.
11. No proof or documentation has been presented to the FCC, for the record, which substantiates any of the claims by the CTIA or it's members.
12. To the best of our knowledge, no bona-fide subscriber has ever been involved in fraudulent activities caused by an emulated phone.

The FCC never enforced 22.919 in regards to the manufacture of the ESN chip. And, with this new rule change, continues to allow the manufacture of alterable ESNs. However, the CTIA insist that stopping legitimate businesses from performing ESN changes will somehow stop fraud. There simply is no rationale in this thinking. It is obvious that the only reason the CTIA desires the rule change to 22.919 is to eliminate any competition.

In a climate of government deregulation, we can see no legitimate reason why the FCC would want to regulate yet another segment of businesses in the cellular industry. Even the Small Business Administration recognizes that the new rule changes are not about fraud, but rather about eliminating small business competition. We strongly urge the FCC to eliminate the recent changes to 22.919 regarding ESN changes and adopt an aggressive policy of enforcing the standards which have always been in place. This will have a negative impact on real fraud!

CellTek is a member of the Independent Cellular Services Association. The ICSA was formed to represent the interest of the consumer and providers of emulated services. The goal of the ICSA is to set standards for conducting business, providing value added services to the consumer and eliminating cellular fraud. The Association has had a dramatic start with members being added daily. Members must qualify and follow a set standard for ethical conduct. The ICSA is willing to work with the carriers to reduce the incidence of fraud and is supportive of a nominal "maintenance" charge for each emulated telephone placed in service. The ICSA suggest the following to reduce fraud and promote the continued expansion of cellular business and at the same time protect the rights of the public:

- \* ICSA members will register with the FCC and carriers in the markets served.
- \* Members will provide the carriers with a customer list, provided no punitive action is taken.
- \* ICSA members will strive to reduce fraud and report to the carrier any individual inquiring about illegal services.
- \* The ICSA pledges to work in a cooperative spirit with the FCC and common carriers.